

ADMINISTRATIVE COUNCIL MEETING

Meeting Minutes

March 5, 2008

Administrative Council

Members Present:

Phil Griffiths (EEA), Jim Colman (DEP), Laura Marlin (DOS), Enrique Perez (EED), Meg Blanchet (DPH)

Others Present:

Rich Bizzozero (EEA), Mike Ellenbecker (TURI), Liz Harriman (TURI), Heather Tenney (TURI), Rachel Massey (TURI), Joy Onasch (TURI), Glenn Keith (Mass DEP), Steve Risotto (HSIA), Peter Blake (NEFA), Stephen Gauthier (IUE-CWA), John Raschko (OTA), Martin Reynolds (OTA)

I. Call to Order and Introductions

- ❖ Phil Griffiths opened the meeting and attendees introduced themselves.

II. Approval of Minutes

- ❖ A motion was made and seconded to adopt the minutes from the October 31, 2007 and December 11, 2007 Council meetings. The motion was passed unanimously. Phil Griffiths suggested addressing the "Lower Hazard Substance Policy Analysis: Sec, Iso, & N-butyl Alcohol" prior to discussing "Higher Hazard Substance Policy Analysis: Perchloloethylene."

III. Higher Hazard Substances Outreach Strategy: TCE, Cad and Cad Compounds

- ❖ Rich Bizzozero summarized the higher hazard substance outreach strategy relating to TCE, Cadmium and Cadmium compounds that he had outlined at the December 11, 2007 Administrative Council meeting and the January 28, 2008 TUR Advisory Committee meeting. Meetings with representatives of impacted industries are under way and the outreach will include mailings, conference presentations, working with trade associations, workshops and other less formal efforts.

III. Lower Hazard Substance Policy Analysis: Sec, Iso & N-butyl Alcohol

- ❖ Michael Ellenbecker and the TURI team provided background and summarized their analysis.
 - This is first time the program has reviewed data for making a recommendation for designation of a chemical as a lower hazard substance.
 - The lower hazard substance designation does not mean the substance is not hazardous, but that it is considered less hazardous than other TURA listed chemicals. Sec, iso and n-butyl alcohol affect the central nervous

system. They are flammable, but have low vapor pressure which is a key consideration in this recommendation.

- There are substances that can be substituted and users are encouraged to explore alternatives.
 - Once a lower hazard designation is approved, users would not be subject to the per-chemical fee, but would still pay an annual base fee.
 - Companies using the chemicals remain part of TURA, would continue to submit a toxics use report and be responsible for developing toxics use reduction plans.
 - Because the substances are considered less toxic, TURI supports the SAB recommendation that these substances be designated as lower hazard substances.
- ❖ There was a discussion of the original list of hazardous chemicals and the statute directive to review higher/lower hazard category substances.
- ❖ Rich Bizzozero distributed minutes of the Advisory Committee where the committee discussed and supported the lower hazard designations.
- ❖ Phil Griffiths asked for a motion on the designation. There was a motion to designate sec, iso and n-butyl alcohol as lower hazard substances, the motion was seconded and unanimously approved.

IV. Higher Hazard Substance Policy Analysis: Perchloloethylene

- ❖ Michael Elenbecker, Liz Harriman, Rachel Massey, and Heather Tenney provided an overview of the perchloloethylene (PCE) analysis to support a higher hazard designation recommended by the SAB, and outlined implications. The new designation would include the reporting threshold being lowered to 1,000 lb/year for companies in TURA-covered industry sectors with ten or more employees; new companies entering the program would be required to file annual toxics use reports, pay annual fees and develop a toxics use reduction plan every two years. The TURA program would prioritize PCE in allocating program resources. The panel reviewed:
- State of the Science: PCE has serious effects on human health; its toxicity has been linked to cancer by the International Agency for Research on Cancer and a recent Cape Cod water contamination study.
 - Number of Facilities Affected: PCE is most widely used as a garment dry cleaning solvent and less often as a metal degreaser. TURI estimates that between 40 and 100 dry cleaners would be new filers. Seven to 15 companies from the plastics and adhesives industries would have to file. In total, the higher hazard designation would affect 70 to 160 facilities.
 - Opportunities for New Filers: Feasible alternatives are available for most PCE uses, including new equipment introductions, process changes and material substitutions. California was cited as a PCE regulatory success story.

- Regulatory Context: Due to its toxicity, PCE is subject to extensive regulation by the U.S. E.P.A., Massachusetts, California, New Jersey, Canada and Sweden.
 - Implications of the TURA Program: The TURA program is well-positioned to assist new filers seeking to reduce or eliminate PCE usage and TURI has ongoing initiatives addressing PCE. In terms of additional cost to new filers, most new filers for PCE would have a base fee of \$1,850 because they have fewer than 50 employees: for example, the typical dry cleaner would pay \$2,850 (base fee plus \$1,100 chemical fee).
- ❖ Jim Colman asked about TURI's level of confidence in its new filer projections from the dry cleaning industry. This prompted a lengthy discussion regarding the overall breadth and impact of the higher hazard designation. Glenn Keith indicated that MassDEP will receive dry cleaner environmental results program (ERP) certifications in September 2008 and that data on the full-time equivalent employees (FTEs) will be asked of dry cleaners and will be available in October.
- ❖ Rich Bizzozero summarized comments from the Advisory Committee members who expressed concerns about the quantity of PCE use in the state. He said that members strongly recommended a higher hazard designation and that was echoed by members of the public attending the Advisory Committee meeting. The Advisory Committee received two sets of written comments from industry representatives. Stephen Risotto (Halogenated Solvents Industry Association) contended TURI/OTA based decisions on old data and should have considered findings from a Nordic study that found no link between tetrachloroethylene (PCE) and esophageal cancer. Peter Blake (Northeast Fabricare Association) also referenced the Nordic study and suggested that dry cleaners are already well regulated and have already dramatically reduced PCE usage, reflecting a strong working relationship with Mass ERP – and that there was no need for additional efforts.
- ❖ Two industry representatives addressed the Council.
- Stephen Risotto questioned why PCE was singled out when it represents a lower hazard, given the Nordic study findings, which he said found no cancer link and which he characterized as the best available study. He referenced significant PCE usage reductions and California's mixed results in regulating PCE. He said that the Cape Cod study did not address worker exposure and suggested the SAB review the Nordic study. He recommended transitioning dry cleaners to wet cleaning gradually, rather than phasing out PCE use quickly.
 - Peter Blake reiterated his written comments stating that the industry has reduced PCE usage nationally by 80%, largely through the introduction of new equipment. He said that there is no benefit to placing PCE in the TURA program as a HHS, because ERP has been doing a great job in controlling the substance. He said that the 10 FTE criterion is key and the shift to alternative cleaning chemistries is happening.

- ❖ Two Advisory Committee members addressed the Council.
 - Tolle Graham (MassCOSH), an Advisory Committee member attending the meeting as a member of the public, voiced concern regarding the number of PCE users and reiterated that the Advisory Committee to the Administrative Council strongly supports the higher hazard designation.
 - Stephen Gauthier, an Advisory Committee member to the Administrative Council, said that organized labor and workers across Massachusetts are concerned about PCE and that workers are participating in industry-wide joint health and safety committees. The focus is not solely the dry cleaning industry. He said that workers and organized labor are asking the Administrative Council to designate PCE as a high hazard substance.
- ❖ There was a discussion concerning the numbers of machines using PCE, sales figures and typical unit operating life. Members also asked whether TURI can allocate sufficient resources to assist affected users, the projected fees and the fee waiver procedure.
- ❖ Phil Griffiths said that there is a good regulatory program (dry cleaner ERP) in place and asked what will be the additional benefits derived from the higher hazard designation under TURA? He said he will want to review the September dry cleaner FTE statistics and additional information regarding the turnover of equipment and its impact on PCE usage, as well as the overall business impact of the proposal.
- ❖ Rich Bizzozero said that assuming the regulatory process begins in August, no public hearing would be held before October, so it may be possible to get the higher hazard substance designation into this year's regulation package although it would be tight.
- ❖ Jim Colman voiced concern that there may be substances other than PCE used by industry that warrant resources and said that, pending additional information, he could not immediately vote on the higher hazard PCE designation. He also said that he would have additional questions and agreed to try to get those out to the program prior to the next Administrative Council meeting, so that both the questions and answers could be discussed.
- ❖ Laura Marlin and Enrique Perez expressed concern about the financial impact the higher hazard designation would have on dry cleaners and asked if economic impact data could be made available to the Council.
- ❖ Discussion then focused on the need for additional information, such as industry FTE data, the cost/benefits associated with the California regulatory effort, and projected small business cost/benefits associated with Massachusetts designating PCE as a higher hazard substance.

- ❖ TURI will prepare and distribute a list of questions and answers addressing these issues prior to the next Council meeting.
- ❖ Rich Bizzozero suggested delaying the discussion of the delisting petition for lead and mercury in concrete manufacture for a couple of meetings to allow the Council to focus on matters that have statutory deadlines, in particular, the review of the CERCLA chemicals.

V. Schedule Next Meeting

The next meeting will be held on April 16, beginning at 9 AM.

VI. Adjourn

There being no further business, Phil Griffiths adjourned the meeting.

3.18.08